



Planning Department

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 929-6631
Fax (978) 929-6340
planning@acton-ma.gov

MEMORANDUM

To: Zoning Board of Appeals **Date:** June 24, 2015
From: Kristen Guichard, AICP, Assistant Town Planner *KGB*
Subject: **Application for Variance – 429 Great Road**

Location: 429 Great Road
Owner/Applicant: Leo Bertolami, Country Properties, LLC
Site Area: 1.16 acres
Map/Parcel: C5-67
Zoning: Limited Business ; Ground Water Protection Dist. Zone 4 & 3
Filing Date: **June 8, 2015**
Hearing: **July 6, 2015**
Decision Due Date: **April 9, 2016**

The Applicant submitted a petition for variance from the front yard setback for the reconstruction and extension of a pre-existing nonconforming structure. The required front yard setback in the Limited Business District is 75 feet. The Applicant proposes to demolish the existing structure with a current setback of less than 5 feet, and construct a new structure having a setback of 15 feet. The Applicant claims a hardship based on the shape of the lot. Building plans were not submitted as part of the application; we assume the plans for the variance application are the same as special permit application #15-08, this should be confirmed by the Applicant.

Under MGL Chapter 40A, Section 10, to grant a variance the permit granting authority must find:

“.....that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.”

The Acton Zoning Bylaw echoes these statutorily required findings and adds that “the Board of Appeals shall consider whether the granting of such variance is consistent with the Master Plan” (ZBL Section. 10.5.5.2 - end).

The Planning Department does not oppose the petition, but defers to the Zoning Board of Appeals as permit granting authority. If granted, the ZBA may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures.